

107TH CONGRESS
1ST SESSION

S. 1004

To provide for the construction and renovation of child care facilities, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 7, 2001

Mr. JEFFORDS (for himself and Mr. DODD) introduced the following bill;
which was read twice and referred to the Committee on Banking, Housing,
and Urban Affairs

A BILL

To provide for the construction and renovation of child care
facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Care Construc-
5 tion and Renovation Act”.

6 **SEC. 2. USE OF COMMUNITY DEVELOPMENT BLOCK**
7 **GRANTS TO ESTABLISH CHILD CARE FACILI-**
8 **TIES.**

9 Section 105(a) of the Housing and Community De-
10 velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

1 (1) in paragraph (22), by striking “and” at the
2 end;

3 (2) in paragraph (23), by striking the period at
4 the end and inserting a semicolon;

5 (3) in paragraph (24), by striking “and” at the
6 end;

7 (4) in paragraph (25), by striking the period at
8 the end and inserting “; and”; and

9 (5) by adding at the end the following:

10 “(26) the construction and renovation of child
11 care facilities.”.

12 **SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHA-**
13 **BILITATED CHILD CARE FACILITIES.**

14 Title II of the National Housing Act (12 U.S.C. 1707
15 et seq.) is amended by adding at the end the following:

16 **“SEC. 257. MORTGAGE INSURANCE FOR CHILD CARE FA-**
17 **CILITIES.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) CERTIFICATION OF COMPLIANCE.—The
20 term ‘certification of compliance’ means a certifi-
21 cation that a facility complies with the standards
22 and requirements applicable to the facility under the
23 laws of the State or unit of general local government
24 in which the facility is or is to be located.

1 “(2) CHILD CARE FACILITY.—The term ‘child
2 care facility’—

3 “(A) means a public or private facility
4 that—

5 “(i) has as its purpose the care and
6 development of—

7 “(I) children who are less than
8 16 years of age; or

9 “(II) school-age children and
10 youth during non-school hours; and

11 “(ii) is operated in accordance with all
12 applicable State and local laws and regula-
13 tions; and

14 “(B) does not include any facility for
15 school-age children that is primarily for use
16 during normal school hours.

17 “(3) EQUIPMENT.—The term ‘equipment’
18 includes—

19 “(A) machinery, utilities, and built-in
20 equipment, and any necessary enclosure or
21 structure to house them; and

22 “(B) any other items necessary for the
23 functioning of a particular facility as a child
24 care facility, including necessary furniture,
25 books, and curricular and program materials.

1 “(4) FIRST MORTGAGE.—The term ‘first
2 mortgage’—

3 “(A) means such classes of first liens as
4 are commonly given to secure advances (includ-
5 ing advances during construction) on, or the
6 unpaid purchase price of, real estate under the
7 laws of the State in which the real estate is lo-
8 cated, together with the credit instrument or in-
9 struments (if any) secured thereby; and

10 “(B) includes any mortgage in the form of
11 1 or more trust mortgages or mortgage inden-
12 tures or deeds of trust, securing notes, bonds,
13 or other credit instruments, that, by the same
14 instrument or by a separate instrument, creates
15 a security interest in initial equipment, whether
16 or not attached to the realty.

17 “(5) MORTGAGE.—The term ‘mortgage’ means
18 a first mortgage on real estate in fee simple, or on
19 the interest of either the lessor or lessee thereof
20 under a lease having a period of not less than 7
21 years to run beyond the maturity date of the mort-
22 gage.

23 “(6) MORTGAGOR.—The term ‘mortgagor’ has
24 the meaning given the term in section 207(a).

1 “(b) INSURANCE OF MORTGAGES.—In order to facili-
2 tate the establishment and rehabilitation of child care fa-
3 cilities, the Secretary may—

4 “(1) insure a mortgage that is secured by a
5 property or project that is—

6 “(A) a new child care facility, including a
7 new addition to an existing child care facility
8 (regardless of whether the existing facility is
9 being rehabilitated); or

10 “(B) a substantially rehabilitated child
11 care facility, including equipment to be used in
12 the operation of the facility; and

13 “(2) make a commitment to insure any mort-
14 gage described in paragraph (1) before the date of
15 execution or disbursement of the mortgage.

16 “(c) TERMS AND CONDITIONS.—

17 “(1) ELIGIBLE CHILD CARE FACILITIES.—Each
18 mortgage insured under this section shall be secured
19 by a child care facility for which a certification of
20 compliance has been issued by the Secretary during
21 the 12-month period preceding the date on which the
22 commitment to insure the mortgage is issued under
23 this section.

24 “(2) APPROVED MORTGAGOR.—

1 “(A) IN GENERAL.—Each mortgage in-
 2 sured under this section shall be executed by a
 3 mortgagor approved by the Secretary.

4 “(B) REGULATION.—The Secretary may—

5 “(i) require an approved mortgagor
 6 who executes a mortgage under subpara-
 7 graph (A) to be regulated with respect to
 8 charges and methods of financing and, if
 9 the mortgagor is a corporate entity, with
 10 respect to capital structure and rate of re-
 11 turn; and

12 “(ii) as an aid to the regulation of any
 13 mortgagor under clause (i), make such
 14 contracts with and acquire for not more
 15 than \$100 such stock or interest in such
 16 mortgagor as the Secretary considers to be
 17 necessary.

18 “(C) STOCK OR INTEREST.—Any stock or
 19 interest purchased under subparagraph (B)(ii)
 20 shall be—

21 “(i) paid for out of the General Insur-
 22 ance Fund; and

23 “(ii) redeemed by the mortgagor at
 24 par upon the termination of all obligations
 25 of the Secretary under the insurance.

1 “(3) PRINCIPAL OBLIGATION.—Each mortgage
 2 insured under this section shall involve a principal
 3 obligation in an amount not to exceed 90 percent of
 4 the estimated value of the property or project, or 95
 5 percent of the estimated value of the property or
 6 project in the case of a mortgagor that is a private
 7 nonprofit corporation or association (as described in
 8 section 221(d)(3)), including—

9 “(A) equipment to be used in the operation
 10 of the facility when the proposed improvements
 11 are completed and the equipment is installed; or

12 “(B) a solar energy system (as defined in
 13 subparagraph (3) of the last paragraph of sec-
 14 tion 2(a)) or residential energy conservation
 15 measures (as defined in subparagraphs (A)
 16 through (G) and (I) of section 210(11) of the
 17 National Energy Conservation Policy Act (42
 18 U.S.C. 8211(11)), in cases in which the Sec-
 19 retary determines that such measures are in ad-
 20 dition to those required under the minimum
 21 property standards and will be cost-effective
 22 over the life of the measure.

23 “(4) AMORTIZATION AND INTEREST.—Each
 24 mortgage insured under this section shall—

1 “(A) provide for complete amortization by
2 periodic payments under such terms as the Sec-
3 retary shall prescribe;

4 “(B) have a maturity date satisfactory to
5 the Secretary, but in no event longer than 25
6 years; and

7 “(C) bear interest at such rate as may be
8 agreed upon by the mortgagor and the mort-
9 gagee, and the Secretary shall not issue any
10 regulations or establish any terms or conditions
11 that interfere with the ability of the mortgagor
12 and mortgagee to determine the interest rate.

13 “(5) RELEASE.—The Secretary may consent to
14 the release of a part or parts of the mortgaged prop-
15 erty or project from the lien of any mortgage in-
16 sured under this section upon such terms and condi-
17 tions as the Secretary may prescribe.

18 “(6) MORTGAGE INSURANCE TERMS.—Sub-
19 sections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of
20 section 207 apply to any mortgage insured under
21 this section, except that all references in such sub-
22 sections to section 207 shall be construed, for pur-
23 poses of mortgage insurance under this section, to
24 refer to this section.

1 “(d) MORTGAGE INSURANCE FOR FIRE SAFETY
2 EQUIPMENT LOANS.—

3 “(1) AUTHORITY.—The Secretary may, upon
4 such terms and conditions as the Secretary may pre-
5 scribe, make commitments to insure and insure
6 loans made by financial institutions or other ap-
7 proved mortgagees to child care facilities to provide
8 for the purchase and installation of fire safety equip-
9 ment necessary for compliance with the 1967 edition
10 of the Life Safety Code of the National Fire Protec-
11 tion Association (or any subsequent edition specified
12 by the Secretary of Health and Human Services).

13 “(2) LOAN REQUIREMENTS.—To be eligible for
14 insurance under this subsection a loan shall—

15 “(A) not exceed the estimate by the Sec-
16 retary of the reasonable cost of the equipment
17 fully installed;

18 “(B) bear interest at such rate as may be
19 agreed upon by the mortgagor and the mort-
20 gagee;

21 “(C) have a maturity date satisfactory to
22 the Secretary;

23 “(D) be made by a financial institution or
24 other mortgagee approved by the Secretary as

1 eligible for insurance under section 2 or a mort-
 2 gagee approved under section 203(b)(1);

3 “(E) comply with other such terms, condi-
 4 tions, and restrictions as the Secretary may
 5 prescribe; and

6 “(F) be made with respect to a child care
 7 facility for which a certification of compliance
 8 has been issued by the Secretary during the 12-
 9 month period preceding the date on which the
 10 commitment to insure is issued under this sub-
 11 section.

12 “(3) INSURANCE REQUIREMENTS.—

13 “(A) SECTION 2.—Subsections (c), (d),
 14 and (h) of section 2 shall apply to any loan in-
 15 sured under this subsection, except that all ref-
 16 erences in such subsections to ‘this section’ or
 17 ‘this title’ shall be construed, for purposes of
 18 this subsection, to refer to this subsection.

19 “(B) SECTION 220.—Paragraphs (5), (6),
 20 (7), (9), and (10) of section 220(h) shall apply
 21 to any loan insured under this subsection, ex-
 22 cept that all references in such paragraphs to
 23 home improvement loans shall be construed, for
 24 purposes of this subsection, to refer to loans
 25 under this subsection.

1 “(e) SCHEDULES AND DEADLINES.—The Secretary
2 shall establish schedules and deadlines for the processing
3 and approval (or provision of notice of disapproval) of ap-
4 plications for mortgage insurance under this section.

5 “(f) LIMITATION ON INSURANCE AUTHORITY.—

6 “(1) TERMINATION.—No mortgage may be in-
7 sured under this section or section 223(h) after Sep-
8 tember 30, 2006, except pursuant to a commitment
9 to insure issued on or before such date.

10 “(2) AGGREGATE PRINCIPAL AMOUNT LIMITA-
11 TION.—

12 “(A) IN GENERAL.—The aggregate prin-
13 cipal amount of mortgages for which the Sec-
14 retary enters into commitments to insure under
15 this section or section 223(h) on or before the
16 date described in paragraph (1) may not exceed
17 \$2,000,000,000.

18 “(B) REPORT.—If, on the date described
19 in paragraph (1), the aggregate insurance au-
20 thority provided under this paragraph has not
21 been fully used, the Secretary of the Treasury
22 shall submit to Congress a report evaluating the
23 need for continued mortgage insurance under
24 this section.

25 “(g) NONDISCRIMINATION REQUIREMENT.—

1 “(1) IN GENERAL.—A child care facility receiv-
2 ing assistance under this title may not discriminate
3 on the basis of race, color, or national origin (to the
4 extent provided in title VI of the Civil Rights Act of
5 1964 (42 U.S.C. 2000d et seq.)), religion (subject to
6 paragraph (2)), national origin, sex (to the extent
7 provided in title IX of the Education Amendments
8 of 1972 (20 U.S.C. 1681 et seq.)), or disability (to
9 the extent provided in section 504 of the Rehabilita-
10 tion Act of 1973 (29 U.S.C. 794)), under any pro-
11 gram or activity receiving Federal financial assist-
12 ance under this title.

13 “(2) FACILITIES OF RELIGIOUS ORGANIZA-
14 TIONS.—The prohibition with respect to religion
15 under paragraph (1) shall not apply to a child care
16 facility that is controlled by, or that is closely identi-
17 fied with, the tenets of a particular religious organi-
18 zation, if the application of this paragraph would not
19 be consistent with the religious tenets of such orga-
20 nization.

21 “(h) LIABILITY INSURANCE.—A child care provider
22 operating a child care facility assisted under this section
23 or section 223(h) shall obtain and maintain liability insur-
24 ance in such amounts and subject to such requirements
25 as the Secretary considers to be appropriate.

1 “(i) SMALL PURPOSE LOANS.—

2 “(1) IN GENERAL.—To the extent that amounts
3 are made available pursuant to subsection (l), the
4 Secretary shall make loans, directly or indirectly, to
5 providers of child care facilities for reconstruction or
6 renovation of such facilities, in accordance with this
7 subsection.

8 “(2) REQUIREMENTS.—A loan under this
9 subsection—

10 “(A) may be made only for a child care fa-
11 cility that is financially and operationally viable,
12 as determined under standards established by
13 the Secretary;

14 “(B) may not have a term to maturity ex-
15 ceeding 7 years;

16 “(C) shall bear interest at a rate estab-
17 lished by the Secretary; and

18 “(D) shall be subject to such other terms
19 and conditions as the Secretary may establish
20 by regulation.

21 “(3) AGGREGATE LOAN AMOUNT.—The aggre-
22 gate amount of loans under this subsection to a sin-
23 gle provider may not exceed \$30,000.

24 “(j) NOTIFICATION.—The Secretary shall take such
25 actions as may be necessary to publicize the availability

1 of the programs for mortgage insurance under this section
 2 and section 223(h), and the loan program under sub-
 3 section (i) of this section, in a manner that ensures that
 4 information concerning such programs will be available to
 5 child care providers throughout the United States.

6 “(k) REGULATIONS.—The Secretary shall—

7 “(1) issue any regulations necessary to carry
 8 out this section; and

9 “(2) in carrying out paragraph (1), consult with
 10 the Secretary of Health and Human Services with
 11 respect to any aspects of the regulations regarding
 12 child care facilities.

13 “(l) AUTHORIZATION OF APPROPRIATIONS.—There is
 14 authorized to be appropriated to carry out this section
 15 \$30,000,000 for fiscal year 2002, to remain available until
 16 expended, of which not more than 10 percent may be used
 17 for loans under subsection (i).”.

18 **SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR**
 19 **REFINANCING DEBT OF EXISTING CHILD**
 20 **CARE FACILITIES.**

21 (a) IN GENERAL.—Section 223 of the National
 22 Housing Act (12 U.S.C. 1715n) is amended by adding at
 23 the end the following:

24 “(h) MORTGAGE INSURANCE FOR PURCHASE OR RE-
 25 FINANCING OF EXISTING CHILD CARE FACILITIES.—

1 “(1) DEFINITIONS.—In this subsection, the
2 terms that are defined in section 257(a) have the
3 same meanings as in that section.

4 “(2) AUTHORITY.—Notwithstanding any other
5 provision of this Act, the Secretary may insure
6 under any section of this title a mortgage executed
7 in connection with—

8 “(A) the purchase or refinancing of an ex-
9 isting child care facility;

10 “(B) the purchase of a structure to serve
11 as a child care facility; or

12 “(C) the refinancing of existing debt of an
13 existing child care facility.

14 “(3) PURCHASE OF EXISTING FACILITIES AND
15 STRUCTURES.—In the case of the purchase under
16 this subsection of an existing child care facility or
17 purchase of an existing structure to serve as such a
18 facility, the Secretary shall prescribe any terms and
19 conditions that the Secretary considers necessary to
20 ensure that—

21 “(A) the facility or structure purchased
22 continues to be used as a child care facility; and

23 “(B) the facility receives a certification of
24 compliance.

1 “(4) REFINANCING OF EXISTING FACILITIES.—

2 In the case of refinancing of an existing child care
3 facility, the Secretary shall prescribe any terms and
4 conditions that the Secretary considers necessary to
5 ensure that—

6 “(A) the refinancing is used to lower the
7 monthly debt service costs (taking into account
8 any fees or charges connected with such refi-
9 nancing) of the existing facility;

10 “(B) the proceeds of any refinancing will
11 be employed only to retire the existing indebted-
12 ness and pay the necessary cost of refinancing
13 on the existing facility;

14 “(C) the existing facility is economically
15 viable; and

16 “(D) the facility receives a certification of
17 compliance.

18 “(5) LIMITATION ON INSURANCE AUTHORITY.—

19 The authority of the Secretary to enter into commit-
20 ments to insure mortgages under this subsection is
21 subject to section 257(f).”.

1 **SEC. 5. STUDY OF AVAILABILITY OF SECONDARY MARKETS**
2 **FOR MORTGAGES ON CHILD CARE FACILI-**
3 **TIES.**

4 (a) STUDY.—The Secretary of the Treasury shall
5 conduct a study of the secondary mortgage markets to
6 determine—

7 (1) whether such a market exists for purchase
8 of mortgages eligible for insurance under sections
9 223(h) and 257 of the National Housing Act (as
10 added by this Act);

11 (2) whether such a market would affect the
12 availability of credit available for development of
13 child care facilities or would lower development costs
14 of such facilities; and

15 (3) the extent to which such a market or other
16 activities to provide credit enhancement for loans for
17 child care facilities is needed to meet the demand for
18 such facilities.

19 (b) REPORT.—Not later than 2 years after the date
20 of enactment of this Act, the Secretary of the Treasury
21 shall submit to Congress a report regarding the results
22 of the study conducted under this section.

23 **SEC. 6. TECHNICAL AND FINANCIAL ASSISTANCE GRANTS.**

24 (a) DEFINITIONS.—In this section:

25 (1) CHILD CARE FACILITY.—The term ‘child
26 care facility’ has the meaning given that term in sec-

tion 257(a) of the National Housing Act, as added
by section 3.

(2) ELIGIBLE INTERMEDIARY.—The term “eligible intermediary” means a private, nonprofit intermediary organization that has demonstrated experience in—

(A) financing the construction and renovation of physical facilities;

(B) providing technical and financial assistance to child care providers or other similar entities;

(C) working with small businesses; and

(D) securing private sources for capital financing; and

(3) ELIGIBLE RECIPIENT.—The term “eligible recipient” means any—

(A) existing or start-up center-based or home-based child care provider; and

(B) organization in the process of establishing a center-based or home-based child care program or otherwise seeking to provide child care services.

(4) EQUIPMENT.—The term ‘equipment’ has the meaning given that term in section 257(a) of the National Housing Act, as added by section 3.

1 (b) GRANT AUTHORITY.—The Secretary of Housing
2 and Urban Development, in consultation with the Sec-
3 retary of Health and Human Services, may award grants
4 on a competitive basis in accordance with this section to
5 eligible intermediaries for use in accordance with sub-
6 sections (e) and (f).

7 (c) APPLICATIONS.—To be eligible to receive a grant
8 under this section an eligible intermediary shall submit to
9 the Secretary an application, in such form and containing
10 such information as the Secretary may require.

11 (d) PRIORITY.—In awarding grants under this sec-
12 tion the Secretary shall give a priority to applicants under
13 subsection (c) that serve low-income or rural areas.

14 (e) USE OF FUNDS.—

15 (1) REVOLVING LOAN FUND.—Each eligible
16 intermediary that receives a grant under this section
17 shall deposit the grant amount into a child care re-
18 volving loan fund established by the eligible inter-
19 mediary.

20 (2) PAYMENTS FROM FUND.—Subject to sub-
21 section (f), from amounts deposited into the revolv-
22 ing loan fund under paragraph (1), each eligible
23 intermediary shall provide technical and financial as-
24 sistance (in the form of loans, grants, investments,
25 guarantees, interest subsidies, and other appropriate

1 forms of assistance) to eligible recipients for the ac-
2 quisition or improvement of child care facilities or
3 equipment.

4 (3) LOAN REPAYMENTS AND INVESTMENT PRO-
5 CEEDS.—Any amount received by an eligible inter-
6 mediary from an eligible recipient in the form of a
7 loan repayment or investment proceeds shall be de-
8 posited into the child care revolving fund of the eligi-
9 ble intermediary for redistribution to other eligible
10 recipients in accordance with this section.

11 (f) ALLOCATION OF FUNDS.—Of the amounts dis-
12 tributed from the revolving loan fund of an eligible inter-
13 mediary under subsection (e)(2) in each fiscal year—

14 (1) not less than 50 percent shall be used for
15 the renovation or construction of child care facilities
16 or the acquisition of equipment by eligible recipients,
17 except that the amount made available to any eligi-
18 ble recipient under this paragraph may not exceed
19 40 percent of the total costs incurred by the eligible
20 recipient in connection with such renovation, con-
21 struction, or acquisition; and

22 (2) the amount remaining after distribution
23 under paragraph (1), shall be used to provide direct
24 assistance to eligible recipients in obtaining public or
25 private financing for the renovation or construction

1 of child care facilities and the acquisition of equip-
2 ment, including developing and implementing financ-
3 ing resources, options, and plans for those recipi-
4 ents.

5 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated to carry out this section
7 \$10,000,000 for each of fiscal years 2002 through 2006.

○